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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/680,559

10/06/2003

Jeffrey G. Gibson

DUR-118

4153

27014

7590

04/23/2007

JOHN R. BENEFIEL

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BIRMINGHAM, MI 48009

EXAMINER

JOHNSON, MATTHEW A

ART UNIT

PAPER NUMBER

3682

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

04/23/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/680,559

Applicant(s)

GIBSON, JEFFREY G.

Examiner

Matthew Johnson

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 9, 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 6-8 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 9/15/2006.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5 and 10, are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley et al. (USP-6,802,232) in view of Higgins (USP-6,513,407).

Re clm 1: Buckley discloses a foot pedal (600, Fig 19) comprising a(n):

- elongated lever body (688) comprised of a metal core (602)
- a plastic component (604) at least partially enclosing the exterior of the metal core, said plastic component including an integrally formed foot pad (690) at one end of said elongated lever body and a pivot lug (686)

Buckley does not explicitly disclose that the metal core is tubular and having a hollow interior.

Higgins discloses a pedal (100) comprising a tubular structure (10) and having a hollow interior for the purpose of decreasing weight, reducing cost and ease of manufacture (C1 L62-67).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made, to have modified the metal core of Buckley and incorporate a tubular structure having a hollow interior, as taught by Higgins, for the purpose of decreasing weight, reducing cost and ease of manufacture (C1 L62-67).

Re clm 2: Buckley further discloses that the metal core (602) is made of steel (C17 L45).

Re clm 3: Buckley further discloses that the plastic component (604) is over molded onto said elongated lever body (C17 L49-57).

Re clm 4: Buckley further discloses that the elongated lever body (688) is curved (Fig. 19).

Re clm 5: Buckley further discloses that the plastic component (604) comprises nylon (C17 L54).

Re clm 10: Higgins further discloses that the tubular core (10) hollow interior is substantially unoccupied (Fig 2, C2 L41-55).

4. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buckley et al. (USP-6,802,302) in view of Higgins (USP-6,513,407) further in view of Baumann (USP-5,575,181).

Re clm 9: Buckley discloses all of the claim limitations as described above.

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Buckley does not disclose a portion projecting out from the tubular core and having the pivot lug formed therein of plastic.

Baumann discloses a portion (6A) projecting out from the tubular core (4) and having a pivot lug (6) formed therein of plastic (C2 L22-23) for the purpose of providing a stiff connection to the pedal body and to reinforce the pivot lug (C3 L44-47).

It would have been obvious to a person having ordinary skill in the art at the time the invention was made, to have employed a portion projecting out from the tubular core and having the pivot lug formed therein of plastic, as taught by Baumann for the purpose of providing a stiff connection to the pedal body and to reinforce the pivot lug (C3 L44-47).

### ***Response to Arguments***

5. Applicant's arguments with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the

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shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

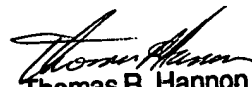
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew Johnson whose telephone number is 571-272-7944. The examiner can normally be reached on Monday - Friday 8:30a.m. - 5:00p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MJ

MJ 4/19/2007

  
Thomas R. Hannon  
Primary Examiner